

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
JUDY A. ROBBINS
UNITED STATES TRUSTEE
JAMES W. ROSE, JR.
TRIAL ATTORNEY
615 E. Houston, Rm. 533
P.O. Box 1539
San Antonio, TX 78295-1539
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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:

TAPATIO SPRINGS REAL ESTATE
HOLDINGS, LP.,

Debtor.

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CASE NO. 11-50054-RBK
CHAPTER 11

**OBJECTION OF THE UNITED STATES TRUSTEE TO APPLICATION FOR APPROVAL
OF THE EMPLOYMENT OF CHRISTOPHER J. WEBER, LLC AS ATTORNEYS FOR
THE DEBTOR AND FOR VACATION OR MODIFICATION OF EMPLOYMENT ORDER**

TO THE HONORABLE RONALD B. KING,
UNITED STATES CHIEF BANKRUPTCY JUDGE:

COMES NOW Judy A. Robbins, United States Trustee for Region 7 ("UST"), by and through the undersigned, and files this Objection to the Application For Approval Of The Employment Of Christopher J. Weber, LLC as Attorneys For The Debtor (the "Application") and for vacation or modification of employment order pursuant to 11 U.S.C. §§ 327(a) and (c), 328(a), and 101(14)(A), (D), and (E), Fed. R. Bankr. P. 2014, 2016(a) and (b), 9023 and 9024 and respectfully shows the Court the following:

1. On January 24, 2011, the Debtor filed the Application seeking to employ Christopher J. Weber, LLC ("Applicant") as Debtor's counsel. As of the filing of this Objection,

the docket reflects that the Court entered an Order authorizing employment of Applicant (the “Employment Order”) on January 26, 2011. At the time the Employment Order was entered, the UST had requested information concerning property conveyed to Applicant for the payment of fees and expenses. Applicant provided some documentation that a deed conveying an unencumbered lot to Applicant was recorded in November 2010. The Applicant has agreed to deed the property back to the Debtor once his fees are paid. The UST submits that there are important issues for the Court to consider concerning the employment of Applicant and the transfer of undisclosed property to allegedly pay his fees. Accordingly, the UST requests that the Court, pursuant to Fed. R. Bankr. P. 9023 or 9024, vacate the Employment Order or modify the order to the extent it allows the alleged transfer of property to Applicant.

2. The UST alleges upon information and belief that the Applicant may have been owed fees by the Debtor or an insider of the Debtor prior to the bankruptcy filing.
3. The UST objects to the Application. Pursuant to 11 U.S.C. § 327(a), the Debtor may only employ professionals that do not hold or represent an interest adverse to the bankruptcy estate and are disinterested persons.¹ It appears to the UST that Applicant may, by virtue of the alleged transfer of the property within 90 days of the bankruptcy filing, may not be disinterested. To the extent that the Applicant received some sort of preferential or otherwise avoidable transfer of property from the Debtor prior to the case, the Applicant has a conflict with the estate. If the

¹ Pursuant to 11 U.S.C. § 101(14)(C), a disinterested person is defined as one who does not have an interest materially adverse to the estate.

property has significant value, the Debtor and the Applicant have effectively transferred property away from the estate that might otherwise be available to pay creditors. Unless the transfer is reversed and the property is listed as property of the estate, the UST cannot envision how the Applicant can act as an attorney in this case.

4. Moreover, it is the Applicant's burden to disclose all facts pertinent to its eligibility to serve as Debtor's accountant and to make a complete disclosure. Pursuant to Fed. R. Bankr. P. 2014, the Applicant is required to fully disclose all compensation arrangements. The disclosure provided by the Applicant with respect to the alleged property lien is deficient and needs to be amended to fully disclose all compensation arrangements prior to any employment of the Applicant including any amounts due and owing as of the bankruptcy filing. The UST alleges upon information and belief that the Applicant has not made adequate disclosure to establish its eligibility to serve as Debtor's counsel. Therefore, because of the lack of disinterestedness and the inadequate disclosure, Applicant is not qualified to act as an attorney for the Debtor pursuant to 11 U.S.C. § 327(a).

WHEREFORE, upon the premises considered, the UST respectfully requests that the Court, pursuant to Fed. R. Bank. P. 9023 and/or 9024, vacate or modify the Employment Order, deny approval of the Application and for such other and further relief to which it may be entitled.

Respectfully submitted,

JUDY A. ROBBINS
UNITED STATES TRUSTEE
REGION 7

By: /s/ James W. Rose, Jr.

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing pleading has been mailed to all parties listed on the attached service list, by first class mail, postage prepaid, and/or by electronic means for all Pacer system participants on this the 9th day of February, 2011.

/s/ James W. Rose, Jr.
James W. Rose, Jr.

Label Matrix for local noticing

0542-5

Case 11-50054-rbk

Western District of Texas

San Antonio

Wed Feb 9 07:34:47 CST 2011

Clyde B. Smith

c/o Derick J. Rodgers

Davis, Cedillo & Mendoza, Inc.

755 E. Mulberry Street, Ste. 500\

San Antonio, TX 78212-3129

Tapatio Springs Real Estate Holdings, LP

101 Preston Trail

Boerne, TX 78006-8860

U.S. BANKRUPTCY COURT

P. O. BOX 1439

SAN ANTONIO, TX 78295-1439

Clyde and Petty Smith

c/o Jason C. Zehner, Esq.

Davis, Cedillo & Mendoza, Inc.

755 E. Mulberry Ave., Ste. 500

San Antonio, TX 78212-3135

(p) INTERNAL REVENUE SERVICE

CENTRALIZED INSOLVENCY OPERATIONS

PO BOX 7346

PHILADELPHIA PA 19101-7346

Kendall County

c/o John T. Banks

Perdue, Brandon, Fielder, Collins & Mott

3301 Northland Drive, Ste. 505

Austin, TX 78731-4954

Kendall County Tax Assessor Collector

Attn: James Hudson

201 E. San Antonio, St.

Boerne, TX 78006-2013

United States Trustee - SA12

US Trustee's Office

615 E Houston, Suite 533

PO Box 1539

San Antonio, TX 78295-1539

Christopher J. Weber

9901 West IH-10, Suite 165

San Antonio, TX 78230-2252

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Internal Revenue Service

Special Procedures

300 E. 8th, St., Stop 5026AUS

Austin, TX 78701

End of Label Matrix

Mailable recipients 9

Bypassed recipients 0

Total 9